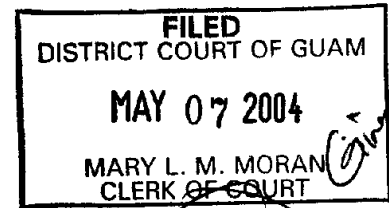


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*Attorneys for Defendant
Hongkong and Shanghai Banking Corporation, Ltd.*



DISTRICT COURT OF GUAM

ALAN SADHWANI, LAJU
SADHWANI, and K. SADHWANI'S
INC., a Guam corporation,

Plaintiffs,

v.

HONGKONG AND SHANGHAI
BANKING CORPORATION, LTD.,
et al.,

Defendants.

CIVIL CASE NO. 03-00036

DECLARATION OF
OF JACQUES G. BRONZE
IN SUPPORT OF MOTION
TO VACATE SCHEDULING
ORDER AND CONTINUE
DISCOVERY AND TRIAL
DATES

I, JACQUES G. BRONZE, hereby declare and state as follows:

1. All matters herein are based on my own personal knowledge.
2. I am over 18 years of age, and legally competent to testify to the facts below and I do so based upon my own personal knowledge.
3. I am the counsel of record for Hongkong and Shanghai Banking Corporation, Ltd., ("HSBC"), in the above-entitled matter.
4. On April 30, 2004, which was the last day for Judge Unpingco on the bench, he issued an Order which was received by HSBC on the afternoon of May 3, 2004, without

DECLARATION OF JACQUES G. BRONZE IN SUPPORT OF MOTION TO VACATE SCHEDULING ORDER AND CONTINUE DISCOVERY AND TRIAL DATES

Page - 2 -

Plaintiffs having to file opposition papers and without hearing, denied HSBC's Ex Parte Motion to Stay and Motion for an Order Certifying the Denial of HSBC's Motion to Strike the Jury Demand for Immediate Appeal.

Both parties have propounded interrogatories and requests to produce on each other. Plaintiffs now seek to depose various witnesses including various officers of First Hawaiian Bank, Joseph K. Fang, Stephen Grantham, as well as depositions of officers of HSBC, more specifically, Messrs. Fred Granillo and I.C. Underwood from HSBC Guam and Messrs. Montan and Page from HSBC in Hong Kong.

5. HSBC needs additional time because until the Court rules on its Motion to Strike, it is not obligated to file an Answer. In addition, additional time is needed to conduct further discovery including its own depositions and Plaintiffs have objected to a stipulated continuance, thus necessitating this motion.

6. As of the day of filing of this motion, HSBC has conducted the following discovery:

- a. HSBC's FRCP 26(a) Disclosures served on December 12, 2003;
- b. HSBC's FRCP 26(a) Supplemental Disclosures served on January 29, 2004 and February 11, 2004;
- c. HSBC's Supoena to First Hawaiian Bank dated December 29, 2003;
- d. HSBC's First Request to Produce dated December 23, 2003; and

e. HSBC's First Set of Interrogatories served on Plaintiffs on March 25, 2004.

7. In response to HSBC's First Set of Interrogatories, Plaintiffs on April 30, 2004, identified two individuals, namely Vashi Jadwani from the Philippines and Haresh Mukhi from Dubai, none of which was ever disclosed to HSBC in Plaintiffs initial and supplemental disclosures or any other discovery responses. Attached as Exhibit "1" is a true and correct copy of K. Sadhawani's Inc., Response to HSBC's First Set Of Interrogatories.

8. HSBC intends to depose Mr. Jadwani amongst others, and it will be impossible to do so given the parameters of the existing Scheduling Order. HSBC contacted HSBC Philippines General Counsel, Mr. Gerry Licup for information regarding the procedure and length of time it would take to compel the testimony of an unwilling Philippine witness and indicated that since the Philippines is not a member of the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters, it would take three to four months to process a Letter Rogatory. Attached as Exhibit "2" is a true and correct copy of the Declaration of Gerry Licup. Due to the short period of time in preparing for this motion and the fact that Mr. Licup resides in the Philippines, Mr. Licup's original Declaration will be filed with this Court once it is received via DHL by declarant's office. Also attached as Exhibit "3" is a true and correct copy of the information posted on the U.S. State Department website regarding judicial assistance as it relates to the Philippines.

9. Similarly, HSBC intends to depose Mr. Mukhi from Dubai, U.A.E.. On May 5, 2004, HSBC's counsel contacted Mohammed Hijazi, a HSBC counsel in Dubai, for information regarding the procedure and length of time it would take to compel the testimony of an unwilling Dubai witness and indicated that since Dubai which is part of U.A.E. is not a member of the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters, it would take a significant time to process a Letter Rogatory. Mr. Hijazi has referred HSBC to a Dubai litigation counsel, however as of the time of filing this motion HSBC has not been successful in getting a hold of the litigation counsel.

10. HSBC's conduct has not been dilatory and has acted within the ambit of the Federal Rules of Civil Procedure. HSBC's motion is not propounded for purposes of delay, but to protect HSBC from any prejudice that may arise from the current posture of the litigation and the inability to depose foreign witnesses under the existing Scheduling Order.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXECUTED this 7TH day of May 2004.



JACQUES G. BRONZE

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IN THE UNITED STATES
DISTRICT COURT OF GUAM

ALAN SADHWANI, LAJU
SADHWANI, and K. SADHWANI'S
INC., a Guam corporation,

Plaintiffs,

vs.

HONGKONG AND SHANGHAI
BANKING CORPORATION, LTD., a
Foreign corporation,
JOHN DOE I through JOHN DOE X,

Defendants.

CIVIL CASE NO. 03-00036

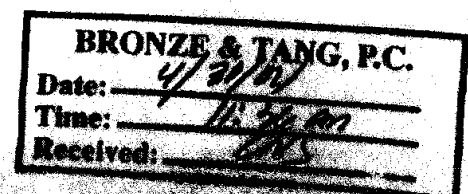
PLAINTIFF K. SADHWANI
INC.'S RESPONSES AND
OBJECTIONS TO
DEFENDANT'S FIRST SET OF
INTERROGATORIES

ARRIOLA, COWAN & ARRIOLA, HAGATNA, GUAM 96910

Pursuant to Federal Rules of Civil Procedure 26 and 33, plaintiff K. Sadhwani's, Inc. ("Plaintiff") hereby responds to the First Set of Interrogatories served by defendant Hongkong and Shanghai Banking Corporation, Ltd. ("HSBC"), as follows:

GENERAL OBJECTIONS

Plaintiff generally objects to the Interrogatories on each and every of the following grounds, which General Objections are incorporated into and made a part of Plaintiff's response to each and every individual interrogatory contained therein.



1. Plaintiff objects that the Interrogatories are overly broad, unduly burdensome, oppressive, and harassing.

2. Plaintiff objects to each and every interrogatory to the extent that it purports to impose any requirement or discovery obligation upon Plaintiff other than as set forth in the Federal Rules of Civil Procedure and any applicable local rule of this court. In particular, Plaintiff objects to the interrogatories to the extent they seek to impose obligations in excess of or inconsistent with those imposed by the Federal Rules of Civil Procedure, particularly Rules 26 and 33 thereof. Plaintiff will comply with the requirements of these Rules in responding to this set of interrogatories.

3. Plaintiff objects to these interrogatories to the extent they seek information unknown to Plaintiff or documents not in Plaintiff's possession, custody or control. All of the responses contained herein are based only upon such information and documents as are presently available to and specifically known and identified by Plaintiff.

4. Plaintiff objects to these interrogatories to the extent they seek information or documents that are already known by or in the possession of HSBC or its counsel or information or documents that are equally available to HSBC.

5. Plaintiff objects to each and every definition, instruction, interrogatory, and request for production to the extent that it seeks information that is not relevant to any claim or defense in the present action and is not relevant to the subject matter involved in the action.

6. Plaintiff objects to these interrogatories on the grounds that discovery in this action is at an early stage, and no depositions have been taken as of the date of these answers. The following responses are given without prejudice to Plaintiff's right to produce evidence of any subsequently discovered documents or other documents which they may later recall or identify, or

which may later be discovered to be responsive to these requests. The responses contained herein are made in a good faith effort to provide those documents which are presently known, available and/or identified, but should in no way be to the prejudice of Plaintiff with respect to further discovery, research or analysis. In addition, HSBC has not complied with its discovery obligations pursuant to Federal Rules of Civil Procedure 34, requiring plaintiffs to file a motion to compel responses to their Third Set of Requests for Production of Documents. Plaintiff may therefore have been unable to obtain responsive information from HSBC and third parties as a result of HSBC's discovery violations.

7. Plaintiff objects to these interrogatories to the extent they seek information or documents that are protected from discovery by the attorney-client privilege, the work product doctrine, the right to privacy, or any other applicable privilege. No such privileged information or such documents will be produced. Any inadvertent production of privileged information or documents is not to be deemed a waiver of any applicable privilege or protection, and Plaintiff reserves the right to object to the introduction or other use of any privileged information or documents that have been produced inadvertently.

The foregoing General Objections apply to each and every respective interrogatory and Plaintiff's additional objections and responses to specific interrogatories are set forth below.

OBJECTIONS TO INSTRUCTIONS

A. Plaintiff objects to Instruction A on the grounds that it is vague, ambiguous and overbroad, in that it instructs plaintiffs to consider the interrogatories to refer "to the time period from January 1, 1994 to the present." (Emphasis added) The ten-year time period contained in this Instruction is not relevant to the claims or defenses in this action nor is it reasonably calculated to lead to admissible evidence.

B. Plaintiff objects to Instruction B to the extent it imposes or purports to impose obligations on Plaintiff greater than those set forth in the Federal Rules of Civil Procedure, the Local Rules, and other applicable statutes, rules and authorities.

C. Plaintiff objects to Instruction D in that it requires plaintiff to answer additional interrogatories or questions not labelled as "interrogatories" and violates the numerical limitation on interrogatories under the Local Rules.

D. Plaintiff objects to Instruction E, since plaintiff cannot possibly indicate for each interrogatory, the identity of each person to whom any information is a matter of personal knowledge.

E. Plaintiff objects to Instruction G in that it requires plaintiff to answer additional interrogatories or questions not labelled as "interrogatories" and violates the numerical limitation on interrogatories under the Local Rules.

F. Plaintiff objects to Instruction H in that it requires plaintiff to answer additional interrogatories or questions not labelled as "interrogatories" and violates the numerical limitation on interrogatories under the Local Rules.

G. Plaintiff objects to Instruction I to the extent it imposes or purports to impose obligations on Plaintiff greater than those set forth in the Federal Rules of Civil Procedure, the Local Rules, and other applicable statutes, rules and authorities.

H. Plaintiff objects to Instruction K to the extent it imposes or purports to impose obligations on Plaintiff greater than those set forth in the Federal Rules of Civil Procedure, the Local Rules, and other applicable statutes, rules and authorities. Plaintiff further objects to Instruction K as it refers to "Husband", and there is no "Husband" involved in this case, except perhaps Mr. Sadhwani in his relationship to his wife Laju Sadhwani.

OBJECTIONS TO DEFINITIONS

1. Plaintiff objects to the definitions of “you”, “your”, and “Defendant”, as Mr. Sadhwani is not a defendant in this case. The definition of those terms refers to “AS”, which is vague and unintelligible. Further the definition of those terms include “any of his past or present employees”, “independent contractors”, “predecessors”, “parents”, “subsidiaries”, affiliates”, “divisions”, “directors” or “officers”, all of which are vague, ambiguous, overbroad and unintelligible. The terms also include “attorneys” and “accountants”, which are objectionable based on privilege.

2. Plaintiff objects to the definitions of “pertain” and “reflecting, referring to, or relating to”, all of which are vague, ambiguous, overbroad and unintelligible.

3. Plaintiff objects to the definitions of “and” and “or”, all of which are vague, ambiguous, overbroad and unintelligible.

4. Plaintiff objects to the definitions of “any” all of which are vague, ambiguous, overbroad and unintelligible.

ANSWERS TO INTERROGATORIES

ANSWER TO INTERROGATORY NO. 1: Plaintiff incorporates by reference the foregoing General Objections, Objections to Instructions, and Objections to Definitions, as though fully set forth herein. Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous and overbroad. Plaintiff objects to this interrogatory to the extent that it seeks information protected by the attorney-client or attorney work product privilege. Without waiving and subject to said objections, plaintiff responds as follows:

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ANSWER TO INTERROGATORY NO. 2: Plaintiff incorporates by reference the foregoing General Objections, Objections to Instructions, and Objections to Definitions, as though fully set forth herein. Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous and

overbroad. Plaintiff objects to this interrogatory to the extent that it seeks information protected by the attorney-client or attorney work product privilege. Without waiving and subject to said objections, plaintiff responds as follows:

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ANSWER TO INTERROGATORY NO. 3: Plaintiff incorporates by reference the foregoing General Objections, Objections to Instructions, and Objections to Definitions, as though fully set forth herein. Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous and overbroad. Plaintiff objects to this interrogatory to the extent that it seeks information protected by the attorney-client or attorney work product privilege. Without waiving and subject to said objections, plaintiff responds as follows:

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ANSWER TO INTERROGATORY NO. 4: Plaintiff incorporates by reference the foregoing General Objections, Objections to Instructions, and Objections to Definitions, as though fully set forth herein. Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous and overbroad. Plaintiff objects to this interrogatory to the extent that it seeks information protected by the attorney-client or attorney work product privilege. Without waiving and subject to said objections, plaintiff responds as follows:

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ANSWER TO INTERROGATORY NO. 5: Plaintiff incorporates by reference the foregoing General Objections, Objections to Instructions, and Objections to Definitions, as though fully set forth herein. Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous and overbroad. Plaintiff objects to this interrogatory to the extent that it seeks information protected by the attorney-client or attorney work product privilege. Without waiving and subject to said objections, plaintiff responds as follows:

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ANSWER TO INTERROGATORY NO. 6: Plaintiff incorporates by reference the foregoing General Objections, Objections to Instructions, and Objections to Definitions, as though fully set forth herein. Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous and overbroad. Plaintiff objects to this interrogatory to the extent that it seeks information protected by the attorney-client or attorney work product privilege. Without waiving and subject to said objections, plaintiff responds as follows:

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1 Queens Road Central
Hong Kong SAR
Telephone No. (852) 2822-2528

Lawrence M. Zhang
1011 Foster Street
Alameda, California 94502
Telephone No. (310) 521-4631

Christopher Page
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Telephone No. (852) 8222-1232

Guy Priestley
c/o HSBC
GPO Box 121, G-F
Shaheen Commercial Complex
MR Kayani Road, Karachi, Pakistan
Telephone No. 92-21-2630380

Edwin Ching
330 Hernan Cortez Avenue, Suite 200
Hagatna, Guam 96910
Telephone No. (671) 472-8868

Joseph K. Fang
240 Father San Vitores Road
Tamuning, Guam 96913
Telephone No. Unknown

Alan Sadhwani
371 South Marine Drive
Tamuning, Guam 96913
Telephone No. (671) 649-5948/1988

Laju Sadhwani
371 South Marine Drive
Tamuning, Guam 96913
Telephone No. (671) 649-5948/1988

ANSWER TO INTERROGATORY NO. 7: Plaintiff incorporates by reference the foregoing General Objections, Objections to Instructions, and Objections to Definitions, as though fully set forth herein. Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous and overbroad. Plaintiff objects to this interrogatory to the extent that it seeks information protected by the attorney-client or attorney work product privilege. Plaintiff also objects on the grounds that pretrial disclosure of witnesses who may be presented at trial is governed by F.R.C.P. 26(a)(3). Without waiving and subject to said objections, plaintiff responds as follows. Plaintiffs may call the following individuals to testify at trial:

Chris Underwood
Hongkong & Shanghai Banking Corporation Ltd.
436 South Marine Drive
Tamuning, Guam 96913
Telephone No. (671) 647-8536

Fred Granillo
Hongkong & Shanghai Banking Corporation Ltd.
436 South Marine Drive
Tamuning, Guam 96913
Telephone No. (671) 647-8528

Stephen J. Grantham
Triple J Motors
157 South Marine Drive
Tamuning, Guam 96913
Telephone No. (671) 649-6555 ext. 239

Magnus Montan
c/o HSBC
1 Queens Road Central
Hong Kong SAR
Telephone No. (852) 2822-2528

Lawrence M. Zhang
1011 Foster Street
Alameda, California 94502
Telephone No. (310) 521-4631

Christopher Page
c/o HSBC
1 Queens Road Central
Hong Kong SAR
Telephone No. (852) 8222-1232

Chris Felix
Century 21 Realty Management Company
701 South Marine Drive
Tamuning, Guam 96913
Telephone No. (671) 647-5003

Hee K. Cho
4032 Wilshire Boulevard #404
Los Angeles, California 90010
Telephone No. (323) 932-1200

Ralph McLain
Lud Valley R.D.1 Hirai Nelson
New Zealand
Telephone No.: Unknown

Lee H. Vensel
Deloitte & Touche LLP
361 South Marine Drive
Tamuning, Guam 96913
Telephone No. (671) 646-3884 ext. 201

Christina Carpio
4204 Glennwood Drive
Killeen, Texas 76542
Telephone No. (254) 690-9261/4224

Barbara Gayle
1055 Cordova Way
Vista, California 92081
Telephone No. (760) 597-9406

Florence Celeste
P.O. Box 94
East Boston, Massachusetts 02128
Telephone No. (857) 222-8958

Anthony G. Wise
c/o HSBC
Private Bag X951
Houghton 2041, South Africa
Telephone No. 27-11-981-4444

Guy Priestley
c/o HSBC
GPO Box 121, G-F
Shaheen Commercial Complex
MR Kayani Road, Karachi, Pakistan
Telephone No. 92-21-2630380

Edwin Ching
330 Hernan Cortez Avenue, Suite 200
Hagatna, Guam 96910
Telephone No. (671) 472-8868

Joseph K. Fang
240 Father San Vitores Road
Tamuning, Guam 96913
Telephone No. Unknown

Patrick B. Oliva
First Hawaiian Bank, Maite Branch
400 Route 8
Mongmong, Guam 96910
Telephone No. (671) 475-7853

John Lee
First Hawaiian Bank, Maite Branch
400 Route 8
Mongmong, Guam 96910
Telephone No. (671) 475-7900

Laura Lynn Dacanay
First Hawaiian Bank, Maite Branch
400 Route 8
Mongmong, Guam 96910
Telephone No. (671) 475-7900

Alan Sadhwani
371 South Marine Drive
Tamuning, Guam 96913
Telephone No. (671) 649-5948/1988

Laju Sadhwani
371 South Marine Drive
Tamuning, Guam 96913
Telephone No. (671) 649-5948/1988

Carol Gogue
First Hawaiian Bank, Maite Branch
400 Route 8
Mongmong, Guam 96910
Telephone No. (671) 475-7900

Mr. Haresh Mukhi
Mayura Khamas Stores L.L.C.
Murshid Bazar
Beira, Dubai U.A.E.

Vashi Jadwani
Jadwani International Inc.
#4 Ind'l Avenue
Severina Ind'l Estate
KM.16 South Super Highway
1700 Paranaque, Metro Manila
Philippines

Don Hemlani
P.O. Box 2397
Hagatna, Guam 96932
Telephone No. (671) 646-9866

ANSWER TO INTERROGATORY NO. 8: Plaintiff incorporates by reference the foregoing General Objections, Objections to Instructions, and Objections to Definitions, as though fully set forth herein. Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous and

overbroad. Plaintiff objects to this interrogatory to the extent that it seeks information protected by the attorney-client or attorney work product privilege. Without waiving and subject to said objections, plaintiff responds as follows: None.

ANSWER TO INTERROGATORY NO. 9: Plaintiff incorporates by reference the foregoing General Objections, Objections to Instructions, and Objections to Definitions, as though fully set forth herein. Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous and overbroad. Plaintiff objects to this interrogatory to the extent that it seeks information protected by the attorney-client or attorney work product privilege. Plaintiff also objects to this interrogatory in on the grounds that the pretrial disclosure of expert witness identity and reports are governed by F.R.C.P. 26(a)(2). Without waiving and subject to said objections, plaintiff responds as follows: Plaintiff has not retained an expert witness at this time. In the event plaintiff retains an expert witness, plaintiff will disclose such pursuant to F.R.C.P. 26(a)(2).

ANSWER TO INTERROGATORY NO. 10: Plaintiff incorporates by reference the foregoing General Objections, Objections to Instructions, and Objections to Definitions, as though fully set forth herein. Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous and overbroad. Plaintiff objects to this interrogatory to the extent that it seeks information protected by the attorney-client or attorney work product privilege. Without waiving and subject to said objections, plaintiff responds as follows:

DAMAGES CLAIMED:

1. Lot Nos. 10054-6, 10005-7, 10054-8, 10054-R8, Dededo: Cost: \$2,100,000; Loss or Damage: \$2,100,000.

2. Hongkong Shanghai Bank Building in Tamuning: Value \$4.2 million; Loss or Damage: \$4.2 million.

3. Sateena Mall, Dededo: Value: \$3.2 million; Loss or Damage: \$3,200,000.

4. Sharp Plaza (Deloitte & Touche): Value: \$2.5 million; Loss or Damage: \$2,500,000.

5. KSI Facility: Value: \$2 million; Loss or Damage: \$2,000,000.

6. Tick Tock Building, Tamuning: Value: \$950,000; Loss or Damage: \$950,000.

7. Tamuning Leasehold Land: Lot 2136#1-9-1 and Lot 2136#1-8-1 (formerly Donald's Mart): Value: \$300,000; Loss or Damage: \$300,000.

Plaintiffs have been engaged in the business of selling consumer electronics, appliances, watches and air conditioning units (Tick Tock). HSBC provided Letters of Credit and Receipts facilities in the purchase of such items from vendors/suppliers/manufacturers. HSBC cancelled Plaintiffs' Letter of Credit and Trust Receipts facilities. Some vendors/suppliers/manufacturers, like Panasonic and Mitsubishi, required Letters of Credit. Plaintiffs were not able to secure alternate financing from any other banking institution because all of their assets were mortgaged to HSBC. As a result, Plaintiffs were unable to purchase consumer items to replenish their inventory from these vendors/suppliers/manufacturers, resulting in Plaintiffs' loss of profits to the present date, in an amount to be proven at trial and provided in a supplemental response.

The loss or damage to the Plaintiffs as a result of the Defendant's actions as alleged in the First Amended Complaint is the difference between the valuation of Plaintiffs' lands and buildings, *i.e.*, \$15,250,000.00, less the purchase price paid by the purchaser of Plaintiffs' Loan, plus loss of profits, plus attorneys' fees, costs and punitive damages of \$10 million. See answer to interrogatory

no. 1. Also, Mark Gruber, Micronesian Appraisal, 194 Chalan San Antonio, Suite 202, Tamuning,
telephone: 646-0234.

Dated this 30th day of April, 2004.

ARRIOLA, COWAN & ARRIOLA

By: Anita P. Arriola
ANITA P. ARRIOLA
Attorneys For Plaintiffs

ARRIOLA, COWAN & ARRIOLA, HAGATNA, GUAM 96910

VERIFICATION

GUAM,)
)
CITY OF HAGATNA.) ss:

ALAN SADHWANI, being first duly sworn, deposes and says: That he the duly authorized representative of K. SADHWANI'S, INC., a Plaintiff in the above-entitled matter; that he has read the foregoing PLAINTIFF K. SADHWANI'S INC.'S RESPONSES AND OBJECTIONS TO DEFENDANT'S FIRST SET OF INTERROGATORIES and knows the contents thereof; and certifies that the same is true as therein stated, except as to those matters stated upon information or belief, and as to those matters, he believes them to be true.

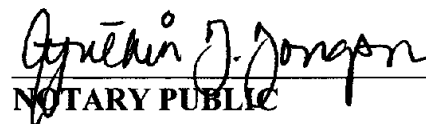
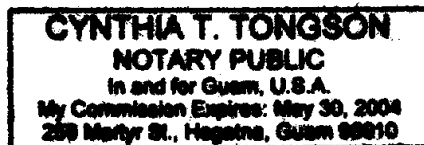
K. SADHWANI'S INC.



ALAN SADHWANI

Its Duly Authorized Representative

SUBSCRIBED AND SWORN to before me this 30th day of April, 2004, by ALAN SADHWANI, duly authorized representative of K. SADHWANI'S, INC.


NOTARY PUBLIC

DISTRICT COURT OF GUAM

ALAN SADHWANI, LAJU
SADHWANI, and K. SADIWANI'S
INC., a Guam corporation,

Plaintiffs,

v.

THE HONGKONG AND SHANGHAI
BANKING CORPORATION, LTD., et al.,
Defendants.

CIVIL CASE NO. 03-00036

DECLARATION OF PHILIPPINE
LEGAL COUNSEL IN SUPPORT
OF MOTION TO VACATE
SCHEDULING ORDER AND
VACATE TRIAL DATE

I, JOSE GERMAN LICUP, do hereby declare and state as follows:

1. I am the General Counsel of Defendant The Hongkong and Shanghai Banking Corporation Limited, a banking corporation with limited liability incorporated under the laws of Hong Kong, SAR, in the Philippines and I have been a member of good standing of the Philippine Bar since 1992 and authorized to practice law therein.
2. I am over 18 years of age, and competent to testify on the facts stated below and I do so to the best of my own personal knowledge.
3. The Philippines is not a party to the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters.
4. The taking of the testimony of an unwilling witness and other evidence in relation to a case pending before foreign courts may be given due course in the Philippines by Philippine courts pursuant to a letter rogatory issued by a judicial authority of the United States of America, on the basis of reciprocity and judicial comity but subject to such rules laid down by Philippine judicial authorities.
5. The letter rogatory should be transmitted to the Executive Judge of the Regional Trial having jurisdiction over the place where the witness may be found.

EXHIBIT

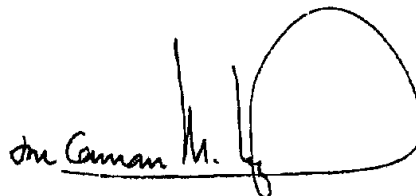
2

Alan Sadhwani, et al. v. Hongkong and Shanghai Banking Corporation, Ltd., et al.
Civil Case No. CV03-00036

6. Based on experience in similar matters, it can take three to four months to process a letter rogatory.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXECUTED this 7th day of May 2004.



JOSE GERMAN LICUP
General Counsel
The Hongkong and Shanghai Banking
Corporation Limited – Manila Branch
8th Floor, The Enterprise Center Tower I
6766 Ayala Avenue, 1200 Makati City
Metro Manila, Philippines

JUDICIAL ASSISTANCE - PHILIPPINES

DISCLAIMER: THE INFORMATION IN THIS CIRCULAR RELATING TO THE LEGAL REQUIREMENTS OF SPECIFIC FOREIGN COUNTRIES IS PROVIDED FOR GENERAL INFORMATION ONLY AND MAY NOT BE TOTALLY ACCURATE IN A PARTICULAR CASE. QUESTIONS INVOLVING INTERPRETATION OF SPECIFIC FOREIGN LAWS SHOULD BE ADDRESSED TO FOREIGN COUNSEL.

PROVISO: This flyer seeks only to provide information; it is not an opinion on any aspect of U.S., Philippine, or international law. The U.S. Department of State does not intend by the contents of this flyer to take a position on any aspect of any pending litigation.

SERVICE OF PROCESS

General: The Philippines is **not** a party to the Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters. Service of process in the Philippines can be accomplished by a variety of methods:

Service by international registered mail, return receipt requested;

Personal service by an agent, generally a Philippine attorney. Lists of Philippine attorneys are available from the Department of State, Office of American Citizens Services and directly from the U.S. Embassy in Manila. The Philippine attorney may also arrange for service by a Philippine process server. Proof of service would be in the form of an affidavit executed before a U.S. consular officer by the individual effecting service;

Direct Service by a Philippine Process Server: It is our understanding that Section 17, Rule 14 and Section 3, Rule 13 of the Philippine Rules of Court provide that process servers, sheriffs of each Philippine province and their deputies, as well as other offices of the Philippine court such as attorneys, may effect service.

Service by Publication;

Service Pursuant to a Letter Rogatory: The use of letters rogatory to effect service of process in the Philippines is not common practice, and is not generally encouraged since it can take more than a year to accomplish and local Philippine authorities may be unfamiliar with the procedure and therefore reluctant to execute such a request.

See our general service of process flyer for more information.

OBTAINING EVIDENCE:

Voluntary Depositions of Willing Witnesses: Depositions of willing witnesses may be conducted in the Philippines regardless of the nationality of the witness. Telephone depositions are also permitted. Depositions can take place at any location, including a hotel, office or the U.S. Embassy. The procedure for taking depositions does not vary in civil, commercial, administrative, domestic relations or criminal cases. Commercial stenographer services are available in the Philippines for the purpose of transcribing the testimony of witnesses in a voluntary deposition. If the testimony of a Philippine Government official concerning official government functions is sought, permission must be obtained from the Philippine Government.

Citation: Article VIII (1)(A) of the U.S. - Philippine Consular Convention of 1948 provides that U.S. consular officers may take the (voluntary) deposition in the Philippines of U.S. citizens and permanent residents of the United States.

Consular Assistance: Services of the U.S. consular officer must be scheduled in advance in connection with the taking of depositions. If the services of a U.S. consular officer are required to administer oaths to the witnesses, stenographer and any interpreter outside the Embassy, additional fees are charged for such services. For additional information, including details concerning consular fees, see the Office of American Citizens Service's information flyer Obtaining Evidence Abroad.

HOST COUNTRY CLEARANCE - PARTICIPATION OF LOCAL, STATE OR FEDERAL GOVERNMENT OFFICIALS FROM THE UNITED STATES: If a local, state, or federal government official from the United States intends to participate in the voluntary deposition of a willing witness in the Philippines, formal host country clearance is required. This can be obtained by contacting the Office of American Citizens Services. The request should be made at least ten days prior to the taking of the deposition to allow sufficient time for the Philippine authorities to make a determination about the official travel.

COMPULSION OF EVIDENCE: Testimony of an unwilling witness and other evidence may be compelled in the Philippines pursuant to a letter rogatory. Letters rogatory generally are transmitted through the diplomatic channel. Consequently such requests should be sent to the Department of State, Office of American Citizens Services for forwarding to the American Embassy in Manila. The Embassy will transmit the request to the Philippine Foreign Ministry. The Foreign Ministry will transmit the request to the Ministry of Justice. The letter rogatory is executed by a Philippine court. It may be possible, subject to the ruling of the presiding Philippine judge, for foreign (American) counsel to participate in proceedings before the Philippine Court. It may also be possible to request that local Philippine counsel be permitted to participate in the proceedings. These options should be included in the letter rogatory issued by the requesting court in the United States. A verbatim transcript of testimony is always prepared by the Philippine court. ***Authentication of the letter rogatory by the Philippine consul is required. Documents may be prepared in English. No other translation is required.*** For further information about the letters rogatory process, see the Office of American Citizens Service's information flyer, Preparation of Letters Rogatory.

PHILIPPINE BLOCKING STATUTE: The Philippines does have a law restricting the use of documents and information vital to the national interest in certain proceedings and processes. The Philippine blocking statute, Presidential Decree 1718 of August 21, 1988 is still in effect and has not been amended. Implementing rules and regulations called for in the section of the law dealing with requests for judicial assistance have not been promulgated.

U.S. EMBASSY LOCATION: U.S. Embassy, Consular Section, American Citizens Services, 1201 Roxas Blvd., 1000 Manila, Philippines; tel: 011-63-2-521-7116; fax: 011-63-2-522-3242.

Using the Internet: Many of our judicial assistance flyers are also available on the Internet via the Department of State, Bureau of Consular Affairs home page under Judicial Assistance.

Preparation of Letters Rogatory
Obtaining Evidence Abroad
Service of Process Abroad
Authentication of Documents

See also, the Department of State, Office of the Legal Adviser for Private International Law home page.

TREATY DATABASES ON THE INTERNET:

United States Department of State, Office of the Legal Adviser, Treaty Affairs, List of Treaties and Other International Agreements of the United States In Force:
http://www.state.gov/www/global/legal_affairs/tifindex.html

United Nations (UN): Databases/Treaties

Council of Europe (COE): under Texts/Treaties

Organization of American States (OAS): under Public Information/Documents/Treaties.

QUESTIONS: Should you have further questions about the procedures not addressed in this material, please contact the Office of American Citizens Services, East Asia and Pacific Division, Department of State, 2201 C Street, N.W., Room 4817, Washington, D.C. 20520, tel: 202-647-6769; or 202-647-5226; fax: 202-647-2835.

Return to Judicial Assistance Page